



Comptroller General
of the United States

1133315

Washington, D.C. 20548

Decision

Matter of: The Core Group--Entitlement to Costs

File: B-256109.3

Date: July 5, 1994

DECISION

The Core Group requests that our Office declare it entitled to recover the reasonable costs of preparing its proposal submitted in response to request for proposals (RFP) No. F29601-92-R-0065, issued by the Department of Air Force, and the costs of filing and pursuing its protest against the terms of the RFP and the Air Force's rejection of its proposal.

We deny the request.


The protest, filed on December 28, 1993, challenged the agency's rejection of Core's proposal as technically unacceptable, and contended that the incumbent contractor improperly participated in the drafting of the RFP's statement of work. On January 25, 1994, the agency informed our Office that it was canceling the solicitation. On January 27, we dismissed the protest as academic.

Under our Bid Protest Regulations, we may declare a protester entitled to recover the reasonable costs of filing and pursuing its protest, and proposal preparation costs, where we determine that a solicitation, proposed award, or award does not comply with statute or regulation. 4 C.F.R. §§ 21.6(d)(1) and (2) (1994). This provision, however, is inapplicable here, as we made no determination concerning the merits of Core's protest, and, as such, the propriety of the agency's actions. Rather, as stated above, Core's protest was dismissed as academic because the underlying solicitation was canceled.

We may also declare a protester entitled to recover the reasonable costs of filing and pursuing its protest, but not proposal preparation costs, where the contracting agency decides to take corrective action in response to a protest. 4 C.F.R. § 21.6(e). Here, it is unclear from the record whether the agency's cancellation of the solicitation was in response to Core's protest or whether the cancellation of the solicitation was due to factors wholly unrelated to the contentions raised by Core in its protest. In any case,

even if it is assumed that the agency's cancellation of the solicitation was corrective action in response to Core's protest, it provides no basis to determine Core entitled to its protest costs. We will only award costs under this provision where the agency unduly delayed taking corrective action in the face of a clearly meritorious protest. Pulse Elecs., Inc.--Claim for Costs, B-243828.2, Aug. 19, 1991, 91-2 CPD ¶ 164. Here, to the extent the agency's cancellation can be view as corrective action, we do not view the time taken by the agency to implement the cancellation/corrective action--18 working days after the protest was filed--to be undue delay. Id.

The request for a declaration of entitlement to costs is denied.


Robert P. Murphy
Acting General Counsel